

## Implementing Order



**Implementing Order No.:** IO 3-38

**Title:** MASTER PROCUREMENT IMPLEMENTING ORDER

**Ordered:** 9/20/22

**Effective:** 10/1/22

### **AUTHORITY:**

Sections 2-8.1, 2-8.2 and 2-11.1 of the Code of Miami-Dade County, Sections 1.01 and 5.03 of the Miami-Dade County Home Rule Charter.

### **SUPERSEDES:**

This Implementing Order (I.O.) supersedes previous Implementing Order 3-38, ordered March 8, 2016 and effective March 18, 2016

### **SCOPE:**

This Implementing Order governs the County's processes for the purchase of goods and services including professional services (other than those professional services whose selection is governed by Sec. 287.055 F.S. and Secs. 2-10.4 and 2-10.4.01 of the Miami-Dade County Code). It establishes the roles and responsibilities of the Strategic Procurement Department (SPD), methods of purchasing goods and services, and the authority to award contracts. Additional policies and procedures relating to the County's procurement processes are detailed in the SPD Procurement Guidelines, other Administrative Orders, Implementing Orders, and the County Code.

### **EXCEPTIONS:**

This Implementing Order does not apply to: construction; purchase, lease or rental of real property; permits; programming partnerships at Miami Dade Parks, Recreation and Open Spaces Department; the purchase of professional architectural, engineering, architectural landscape and land surveying professional services whose selection is governed by Sec. 287.055 F.S. and Secs. 2-10.4 and 2-10.4.01 of the Miami-Dade County Code and detailed in A.O. 3-39; or procurement activities covered by specific ordinances such as the Public Health Trust, Expedite, Performing Arts Center, aviation retail concessions, etc.

### **DELEGATION OF AUTHORITY:**

This Implementing Order establishes that SPD is designated as the central procurement agency for making purchases with County funds except as noted herein. All authorized purchases shall be made in compliance with Florida Statutes, this Implementing Order and established SPD Procurement Guidelines. No person may make any purchase with County funds unless specifically authorized to do so by County Code, implementing order, resolution, administrative order, or designation by the Board of County Commissioners or the County Mayor. The SPD Director shall be the Chief Procurement Officer.

The SPD Director shall have relevant, recent experience in large-scale public procurement of goods and services, possess a record of unquestioned integrity and have demonstrated executive, managerial and organizational skills. The SPD Director may also delegate SPD professional staff to exercise the authority contained thereunder. The SPD Director is

responsible for hiring appropriate qualified professional staff to carry out the Department's mission.

The SPD Director is charged with fostering full and open competition consistent with County policy. The SPD Director is also responsible for implementing programs and initiatives to improve competition geared at yielding best value. This includes, but is not limited to, providing specialized training for staff regarding determination of appropriate acquisition methods, assuring effective and efficient market research, enhancing competitive contracting opportunities for small and minority business entities, scrutinizing sole source, and bid waiver acquisitions and challenging specifications and statements of work (SOW) to ensure no artificial barriers limit or reduce competition.

**POLICY:**

For the County to function efficiently and responsibly, goods and services meeting the necessary quality and fit shall be procured for County agencies at fair and reasonable prices and in a timely manner. Advance acquisition planning by departments, effective market research, and early SPD collaboration with user departments in the acquisition process are essential to successful procurement.

The standard method for the procurement of goods and services in Miami-Dade County is the Invitation to Bid (ITB) process. Other acquisition processes available to Miami-Dade County for the purchase of goods and services include, but are not limited to, the Request for Proposals (RFP) and Request for Qualifications (RFQ) processes. Formal market research may utilize a Request for Information (RFI) process. Pursuant to Section 2-8.1.6 of the Code, the County created the Expedited Purchasing Program (EPP). The EPP may be used for the competitive purchase of supplies, materials, and services, including professional services other than architectural and engineering services which are estimated to cost \$1 million dollars or less.

To obtain the best value for the taxpayers' dollar and to promote equitable economic participation by all segments of our community, it is the policy of Miami-Dade County to purchase goods and services via an open and competitive process. When competition is not available, or when it is determined in the best interest of the County to utilize means other than full and open competition, County legislation authorizes the execution of purchases on a bid waiver, sole source or emergency basis.

**PURPOSE:**

The purpose of this Implementing Order, and the corresponding Procurement Guidelines issued by SPD, is to simplify and clarify the procurement process, establish clear parameters of procurement authority and accountability, consolidate and standardize the procedures governing procurement countywide, enhance public confidence, ensure the fair and equal treatments of vendors, foster competition and help safeguard the quality and integrity of procurement in Miami-Dade County.

**PROCUREMENT ORGANIZATION:**

SPD is the central agency for the procurement of goods and services for Miami-Dade County government. SPD is dedicated to customer service and the timely acquisition of best value goods and services. Utilizing technology and sound business processes, SPD strives to bring the greatest value to Miami-Dade County with integrity, fairness, competition and community inclusion.

It is the responsibility of SPD to issue and maintain procurement policies, procedures and guidelines for County departments. Any County department that issues solicitations or executes purchases for goods or services governed by this Implementing Order shall comply with this Implementing Order and the SPD Procurement Guidelines.

SPD is responsible for implementing this Implementing Order and establishing related forms, procedures, manuals and guidelines. It is the responsibility of the SPD Director or authorized designee, to:

1. Strategize collaboratively with departments early in the procurement process to encourage advanced acquisition planning
2. Prepare effective solicitation documents
3. Assemble appropriate specifications, terms and conditions
4. Conduct adequate market research
5. Determine the appropriate acquisition method
6. Develop evaluation criteria
7. Advertise solicitation documents
8. Evaluate or administer the evaluation of bids/proposals
9. Reject bids/proposals, pursuant to established authority to reject bids/proposals
10. Prepare contract awards or contract award recommendations, pursuant to the established authority to award contracts

**LOCAL COMPETITION ADVOCATES:**

The SPD Director shall appoint one or more County staff as Local Competition Advocates to ensure that the County's procurement practices do not exclude or disadvantage local firms in the procurement process. The Local Competition Advocates shall review solicitations issued to ensure that the manner and method by which the County is purchasing goods or services does not create barriers to local competition. Such review shall include, but not be limited to, issues such as value of the purchase, the minimum qualifications required to perform on the contract, the type of goods and/or services sought, the evaluation criteria and the method of advertising the solicitation. The Local Competition Advocates shall increase the opportunities for local firms to compete to provide the good or service.

**MARKET RESEARCH:**

County staff shall conduct market research prior to or during the development of contract specifications or scope of work for any purchase of goods or services. The research shall be performed in accordance with SPD Procurement Guidelines and the dollar thresholds established therein. The Office of the Inspector General shall review periodically staff's compliance with the required procedures.

The primary purpose of market research in public procurement is to collect and analyze data to determine the availability of sources of supply and to promote the formulation of specifications that provide best value, and fair and open competition. Specifications and requirements should neither be exclusionary nor unreasonably favor any one bidder or proposer.

The process of market research begins with the intent to satisfy a legitimate County requirement. Whenever practical, the requirement should be stated in terms of performance or functionality. This means that the required "output" or "outcome" of the goods or services to be purchased should be clearly understood and defined.

During the course of market research, as more fully described in the SPD Procurement Guidelines, County staff shall contact, whenever possible, no less than three different sources in the affected market. Documentation of such contacts shall identify the sources contacted and the date the source is contacted and shall be maintained in a manner that they may be reviewed by the Office of the Inspector General.

The Local Competition Advocate shall also conduct market research to identify potential barriers in solicitations to local competition. The Local Competition Advocate shall solicit advice from local firms regarding County solicitations to determine local capacity, capability, and products prior to issuing recommendations on any solicitation.

### **METHOD FOR PURCHASING GOODS AND SERVICES:**

#### **PURCHASES OVER \$250,000**

Formal sealed written bids shall be solicited from vendors for purchases over \$250,000 in accordance with the SPD Procurement Guidelines.

#### **PURCHASES OVER \$25,000 and up to \$250,000**

Purchases over \$25,000 and up to \$250,000 shall be in accordance with the SPD Procurement Guidelines.

#### **PURCHASES UP TO \$25,000 (SMALL PURCHASE ORDERS)**

Small purchase orders represent the decentralized delegation of purchase authority to authorized personnel in County departments. Small purchase orders may not exceed \$25,000 per purchase, and shall be executed in strict accordance with the requirements of this Implementing Order and the SPD Procurement Guidelines. Department Directors or their authorized designees are responsible for and will be held accountable for their department's appropriate use of small purchase orders and compliance with the competitive and administrative requirements and supporting documentation established in this Implementing Order and in the SPD Procurement Guidelines. SPD shall track the department's use of small purchase orders in order to ensure economies of scale and the benefits of leveraging the organization's spending is deriving a benefit to the taxpayers by consolidating commonly used goods and services into annual County contracts.

### **PURCHASING CARDS:**

Purchasing cards may be used for certain small purchases by authorized County personnel subject to the specific dollar limitations and requirements established in the Purchasing Card Program Administrative Order (A.O. 3-35) and the Finance Department's Guidelines for the Use of Purchasing Cards, except that individual purchases are limited to \$1,000 per transaction, and a monthly limit of \$25,000 per card in total purchasing card expenditures will be enforced.

### **REQUEST FOR PROPOSALS/REQUEST FOR QUALIFICATIONS:**

A Request for Proposals (RFP) or a Request for Qualifications (RFQ) is a formal written solicitation prepared and issued for the purpose of seeking responses from prospective proposers by a certain date and time as established by Miami-Dade County.

An RFP may be used when: the scope of work cannot be completely defined by the County; the required goods or services can be provided in several different ways; qualifications, experience or the quality of the goods or services to be delivered are significant factors of

consideration, in addition to price; or the responses may contain varying levels of service or alternatives which lend themselves to negotiation.

An RFP may be used when the qualifications of proposers are an important selection criterion, and a particular solution or performance outcome has been established. An RFP may include, but is not limited to, applicable laws, rules, scope of services, proposer qualifications, proposal instructions, terms and conditions of the contract, and evaluation/selection criteria. Contract award is not based solely upon price; rather, there is an evaluation which may include such criteria as qualifications and experience of principals and staff; methodology and management approach; understanding of the project and the County's objective; technical superiority; financial stability; pro forma statements; experience and history of the firm; reference; and costs/revenues.

An RFQ is used to obtain statements of qualifications from proposers when the scope of services cannot or has not been completely established by the County, requiring specific qualifications in order to be considered for contract award. An RFQ includes, but is not limited to, a brief explanation of the purpose of the RFQ, description of the service to be purchased (scope of services), required qualifications, proposal instructions, and evaluation/selection criteria. Contract awards are generally not based solely upon price; rather, there is an extensive evaluation which may include such criteria as qualifications and experience of principals and staff; technical superiority; financial stability; experience and history of the firm; and references.

An RFQ may be used, for example: when creating a pool of qualified vendors to be used on an "as needed" basis; or in a two-step process where the scope of services is incomplete and only those firms selected in the qualification phase compete under a "mini-RFP" when a particular work order or scope of services is established. For selection committee formation and performance, and for selection committee tapping procedures, refer to Implementing Order 3-34.

**ACCESSING CONTRACTS FROM OTHER GOVERNMENT ENTITIES:**

The SPD Director, may award a contract by accessing the competitively solicited contract of any other governmental or quasi-governmental entity or not-for-profit organization, provided the goods or services are not available through an existing Miami-Dade County contract at same or lower price. When accessing a contract of another entity consisting of a pre-qualified vendor pool, the County shall conduct a competitive selection process among the pool members in accordance with SPD Procurement Guidelines or instructions. When the expenditure exceeds \$1,000,000, the SPD Director shall prepare a recommendation for the County Mayor's consideration. The County Mayor shall consider and may present the recommendation to the Board of County Commissioners for award.

**EMERGENCY PURCHASES:**

An emergency purchase is an unforeseen or unanticipated urgent and immediate need for goods or services where the protection of life, health, safety or welfare of the community or the preservation of public properties would not be possible using any of the other purchasing methods described in the Implementing Order, including a bid waiver.

In the event a department director or authorized designee determines that an emergency purchase is necessary, a contract may be awarded without utilizing the competitive bid procedures regardless of the amount of expenditure. Within five (5) working days after the purchase, the County department shall submit the post award requisition to SPD specifying

the circumstances which justified the emergency contract award. When the expenditure is in excess of \$250,000, the SPD Director shall forward the documented circumstances to the County Mayor for presentation to the Board of County Commissioners for ratification.

**PILOT PROJECT AND DEVELOPMENT AGREEMENTS:**

The County Mayor or the County Mayor's designee may enter into pilot project and product demonstration agreements with County vendors or prospective County vendors for the purpose of testing and evaluating technology, products and services provided that such agreements are: (1) for a period not to exceed twelve (12) months from the initiation of the pilot project or demonstration; (2) provided at no cost to the County with the exception of any ordinary cost for County employees or consultants to review such technology, products or services; (3) do not contain any exclusive dealing, in-kind or advertising commitments by the County; (4) provide for indemnification of the County; (5) provide for County ownership of any data generated during the testing and observation period; and (6) are terminable at will by the County.

Each pilot project or product demonstration agreement shall be subject to review and approval by the County Attorney's Office for legal sufficiency prior to execution. In the event that the County seeks to procure a similar technology, product or service through the County's competitive process, any solicitation document shall include all information regarding the pilot project and the technology, product or services tested.

Pilot project and product development agreements may not serve as a basis for any non-competitive purchase other than a bid waiver or sole source purchase and may not serve as the sole basis of the public interest justification of any bid waiver.

**BID WAIVERS:**

A bid waiver is a purchase of a good or service without formal competitive bidding when it is determined to be in the best interest of the County. Formal competition may be waived by the SPD for expenditures up to \$250,000 and by the Board of County Commissioners for awards greater than that amount. Bid Waiver requests shall be prepared by the user department and submitted to the SPD Director, or authorized designee, for evaluation and analysis. When the expenditure exceeds \$250,000, and it is determined to be in the County's best interest to waive competitive procedures, the SPD Director shall consider and may present the recommendation to the County Mayor.

The County Mayor shall consider and may present the recommendation to the Board of County Commissioners for award. Additional funds and/or extensions of time that may be requested during the contract period are subject to the current authority limits for contract modification in this Implementing Order.

**UNAUTHORIZED PURCHASES:**

An unauthorized purchase is a purchase or commitment of funds by an employee that does not have the authority to do so, or a purchase or commitment of funds by an authorized employee but not in accordance with County legislation or the procedures prescribed by this Implementing Order. The ratification of an unauthorized purchase requires retroactive approval by the SPD Director, or authorized designee, up to \$250,000, and by the Board of County Commissioners for commitments exceeding that amount. Payment for any unauthorized purchase may be deemed the responsibility of the employee that made the purchase or commitment, and shall subject said employee to disciplinary action up to and including termination. The department director having responsibility over the unauthorized

purchase shall respond to the County Mayor in writing with a complete justification for all inappropriate activity, to include the disciplinary action taken, if appropriate, and the corrective action(s) implemented to prevent recurrence.

**NONCOMPETITIVE (SOLE SOURCE) PURCHASES:**

A sole source purchase is the procurement of a good or service for which there is no other vendor who can compete to provide the good or service, and an equal product or service is not available from any other supplier. When the SPD Director, or authorized designee, is satisfied that there is only one source of supply or determines that a noncompetitive situation exists for the required goods or services, full and open competition may be waived by the SPD Director. When the expenditure exceeds \$250,000 the SPD Director shall prepare a recommendation for the County Mayor. The County Mayor shall consider and may present the recommendation to the Board of County Commissioners for award. Additional funds and/or extensions of time may be requested during the contract period and are subject to the current authority limits for contract modifications contained in this Implementing Order.

**JUSTIFICATION FOR BID WAIVERS AND SOLE SOURCE ACQUISITIONS:**

When a County department recommends to SPD the use of other than full and open competition, the appropriate justification for that recommendation must be submitted to SPD for evaluation and analysis. Using the appropriate Justification/Input Document, the user department shall, as a minimum, indicate the purpose of the acquisition, the uniqueness of the item or service, the reason waiver of the competitive process is in the County's best interest, the market research that has been performed to support such actions, and the actions proposed to enhance competition in future acquisitions.

**DEPARTMENTAL REVIEW OF TECHNICAL SPECIFICATIONS:**

When SPD is the issuing department for solicitations, the technical review and revision of specifications of a solicitation prior to advertisement shall be completed by the reviewing department and returned to SPD in not more than fifteen (15) working days from the date received by the department. The technical review of bids or proposals prior to award shall be completed by the reviewing department and returned to SPD in not more than ten (10) working days from the date received by the department. If additional time exceeding the stipulated timeframes is required, a request must be made by the Director or designee of the reviewing department to the SPD Director, with a copy to the corresponding Deputy Mayor, and the SPD Director may allow a reasonable time extension when appropriate. Repeated failure to meet these turnaround time requirements shall be reported by the SPD Director to the County Mayor.

**AUTHORITY TO AWARD CONTRACTS:**

For goods and services including professional services, (other than those professional services whose selection is governed by Sec. 287.055 F.S. and Secs. 2-10.4 and 2-10.4.01 of the Miami-Dade County Code), the Board of County Commissioners shall award all contracts greater than \$1,000,000, and approve all contract modifications not contained in the paragraph below.

The County Mayor or designee (SPD Director), has the authority with respect to purchases for goods and services including professional services (other than those professional services whose selection is governed by Sec. 287.055 F.S. and Secs. 2-10.4 and 2-10.4.01 of the Miami-Dade County Code) to:

- Advertise solicitations up to \$1,000,000.
- Award contracts and/or reject bids/proposals up to \$1,000,000.
- Approve awards of sole source, bid waiver, emergency, and confirmation purchases, when the award results in an amount of \$250,000 or less.
- For contracts under \$1,000,000, approve contract modifications up to a total contract amount of \$1,000,000. Any contract modification that increases the contract amount from below \$1,000,000 to over \$1,000,000 shall be approved by the Board of County Commissioners.
- For contracts having an original or modified contract amount exceeding \$1,000,000, approve contract modifications not exceeding 20% in the aggregate of the original contract amount during the course of the initial contract term, and not exceeding 20% in the aggregate of the modified contract amount during the term of any option to renew that may be exercised.
- To complete the necessary reprocurement action, extend expiring contracts for a maximum of ninety (90) days, with prorated dollar authorization, or such longer period as may be necessary to prevent the suspension or interruption of an essential County service provided such longer extension in no event exceeds 180 days following the expiration of the contract.
- Approve contract modifications that reduce the maximum value of the contract.
- Authorize departments to shift dollar allocations among multiple vendors under a single contract.
- Administer the bid protest procedure in Section 2-8.4 of the Code of Miami-Dade County.

For awards of \$1,000,000 or less, the SPD Director, may render the vendor in default, award the contract to the next lowest bidder or negotiate with the next highest ranked proposer or resolicit and subject the defaulted vendor to re-procurement charges or to forfeiture of the bid bond or security in an amount equal to the damages sustained by the County as a result of the default and recommend the vendor or contractor for debarment. For awards over \$1,000,000, the SPD Director shall prepare a recommendation for the County Mayor. The County Mayor shall consider and may present the recommendation to the Board of County Commissioners for approval.

The County Mayor or designee (the SPD Director) shall submit a bi-annual report to the Board of County Commissioners with a list of the contracts for goods and services exceeding \$250,000 awarded by the County Mayor or designee (the SPD Director) during the preceding six month period.

Proposed awardees must have a complete Miami-Dade County Vendor Registration Application on file with SPD prior to award. SPD and the Regulatory and Economic Resources Department are responsible for determining the criteria for vendor registration and maintaining an up-to-date vendor registration system.

**ASSISTANCE TO SMALL & MINORITY BUSINESSES:**

It is the policy of Miami-Dade County to follow sound and prudent business practices, and to promote full and equitable participation of all segments of the community. With this goal in mind, a concerted effort is made to obtain services in accordance with the requirements of Implementing Order 3-41, administering the Small Business Enterprise (SBE) Program for Goods and Services and A.O. 3-23 Anti-discrimination in Contracting, Procurement, Bonding and Financial Services Activities.

It is the policy of Miami-Dade County that all service contractors performing covered services pay employees providing the covered services no less than the applicable Living Wage, with or without health benefits, in accordance with Section 2-8.9 of the Code of Miami-Dade County and as detailed in A.O. 3-30.

**ETHICS:**

County employees must discharge their duties impartially to assure fair and competitive access to governmental procurement by responsible contractors. It is essential that those doing business with the County also observe the ethical standards prescribed in Section 2-11.1 (i) of the Miami-Dade County Code, the Conflict of Interest and Code of Ethics Ordinance, and the Cone of Silence Ordinance at Section 2-11.1 (t) of the Miami-Dade County Code and described in A.O. 3-27.

Pursuant to Section 2-8.1 (h) (ii) of the Code and Administrative Order 3-29 Prohibiting County Contracting with Individuals and Entities Who are in Arrears to the County, it is the policy of Miami-Dade County to promote efficient and effective financial administration, while ensuring fair and equitable contracting practices; therefore, contractors that are in arrears in excess of \$25,000 and are delinquent for greater than 180 days to the County are prohibited from obtaining new County contracts, extensions of contracts or new purchase orders, until such time as the arrearage has been paid in full or the County has agreed in writing to an approved payment plan.

The Audit and Management Services Department, Office of the Commission Auditor and the Office of the Inspector General may perform random audits of ISD and County department compliance with all legislative and contract requirements in the competition and processing of purchases, including small purchase orders. Departments will be responsible for providing these auditing entities access to all information and documentation required for their oversight of all purchases.

**OTHER PROCUREMENT LEGISLATION:**

Other legislation governing the procurement process includes but is not limited to:

- Bid Protest Ordinance, Section 2-8.4 of the Miami-Dade County Code and Implementing Order No. 3-21;
- Buy American Iron and Steel Products Procurement Program, Section 2-8.2.6.1 of the Miami-Dade County Code;
- Citizens Independent Transportation Trust (CITT), Section 29-124(f) of the Miami-Dade County Code;
- Competitive Bidding for Bond Transaction, Underwriters Pool, Section 2-10.6 of Miami-Dade County Code;
- Construction Safety Records of Prospective Contractors in Responsibility Review, Resolution No. R-1181-18;
- Contractors-Individuals' Disclosure of Felonies in the Past 10 Years (at time of proposal submittal), Sec. 2-8.6 of the Miami-Dade County Code;
- Cybersecurity and Information Technology Procurement and Protection Program, Section 2-8.2.6.2 of the Miami-Dade County Code; Due Diligence performed to determine the Contractor's responsibility, Resolution No. R-187-12
- Disclosure to Board of reasons goods and services are not being procured through local businesses, Resolution No. R-477-18;
- Diversity in Contracting, Resolution No. R-1106-15;

- Fair subcontracting practices. Section 2-8.8 of the Miami-Dade County Code;
- General Obligation Bond Procurement for Capital Project Contracts, of the Miami-Dade County Code Sec. 2-8.2.10;
- Independent Private Sector Inspector General, A.O. 3-20;
- Labor Peace Agreement for Airport Concessions, Resolution No. R-148-07;
- Lobbyist Registration, Section 2-11.1 (s) of the Miami-Dade County Code;
- Local Preference Ordinance, Section 2-8.5 of the Miami-Dade County Code;
- Local Products Preference; Resolution No. R-422-15;
- Miami-Dade Water and Sewer Department Contracting Authority, Sec. 2-8.2.11, and Consent Decree and Capital Improvement Programs Acceleration Ordinance. Sec. 2-8.2.12 of the Miami-Dade County Code;
- Nondiscrimination of Contractor Practices toward Employees, Sec. 2-8.1.5, of the Miami-Dade County Code;
- Office of the Inspector General, Section 2-1076 of the Miami-Dade County Code;
- Outsourcing, Evaluate In-House Capabilities Prior to Utilizing Outside Consultants, Resolution No. R-1204-05;
- Paid Sick Leave for Security Guard Service Contracts, Sec. 2-8-11, of the Miami-Dade County Code;
- Purchase of Disposable Polystyrene Products, Resolution No. R-500-16;
- Service Veteran Business Enterprise Preference, Section 2-8.5.1 of the County Code;
- Taping of selection committee and negotiation committee proceedings required, Section 2-8.1.1.1. of the Miami-Dade County Code; and
- User Access Program (UAP) Section 2-8.10 of the Miami-Dade County Code. ;
- Other state and federal legislation, as applicable.